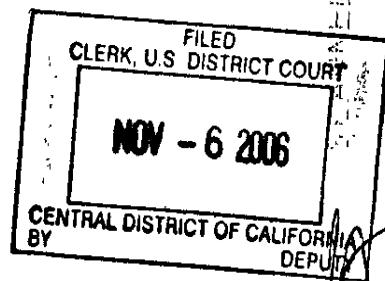


SEND



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 2 United States Attorney  
 3 THOMAS P. O'BRIEN  
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 Chief, Criminal Division  
 4 SHERILYN PEACE GARNETT (Cal Bar No. 208318)  
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8 Attorneys for Plaintiff  
 9 United States of America

**NOTE CHANGES MADE BY THE COURT**

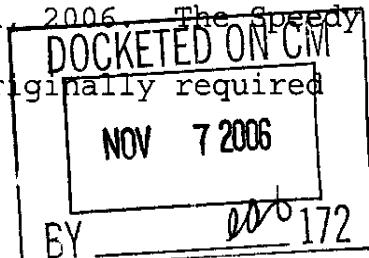
10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA, ) Case No. CR 06-391-RMT  
 13 Plaintiff, )  
 14 v. ) STIPULATION REGARDING CONTINUANCE  
 15 STEVEN ERIK PROWLER, ) OF TRIAL DATE AND EXCLUDABLE TIME  
 16 Defendant. ) UNDER SPEEDY TRIAL ACT; [PROPOSED]  
 17 ) ORDER AND FINDINGS  
 18 )  
 19 ) Current Trial Date:  
 20 ) November 14, 2006  
 21 )  
 22 ) Proposed Date:  
 23 ) January 23, 2007

24 Plaintiff United States of America, by and through its counsel  
 25 of record, the United States Attorney for the Central District of  
 26 California, and defendant Steven Erik Prowler, individually and by  
 27 his attorney of record, Deputy Federal Public Defender Christopher  
 28 W. Dybwad, hereby stipulate and agree as follows:

29 1. Defendant was indicted by the grand jury on May 19, 2006,  
 30 for a violation of 18 U.S.C. § 2423(c), Engaging in Illicit Sexual  
 31 Conduct in Foreign Places. On June 5, 2006, defendant was arraigned  
 32 on the indictment and trial was set for July 11, 2006. The Speedy  
 33 Trial Act of 1974, 18 U.S.C. § 3161 et seq., originally required



cc: PSA  
cm

21

1 that defendant's trial commence on or before July 28, 2006.

2       2. On or about July 5, 2006, this Court, at the request of  
3 defendant, who stated he needed more time to review the discovery  
4 and prepare for trial, continued the trial of this matter from July  
5 11, 2006, to November 14, 2006, and found the time period from July  
6 11, 2006, to and including November 14, 2006, excludable within the  
7 meaning of the Speedy Trial Act, 18 U.S.C. § 3161, et seq.

8       3. For the reasons set forth below, the parties request that  
9 the Court continue the trial from November 14, 2006, to January 23,  
10 2007, and make the following findings:

11           a. Defendant has filed a thirty-three (33) page Motion  
12 to Dismiss the Indictment ("Dismissal Motion"), which challenges  
13 Congress' enactment of 18 U.S.C. § 2423(c). Specifically, the  
14 Dismissal Motion argues, among other things, that 18 U.S.C.  
15 § 2423(c) exceeds Congress' authority to regulate the channels of  
16 foreign commerce, that Congress does not have the authority to  
17 regulate lawful travel, that the prosecution of defendant violates  
18 international law, that this Court lacks jurisdiction over the  
19 prosecution, and that the Court's exercise of jurisdiction of the  
20 prosecution violates the Fifth Amendment to the United States  
21 Constitution. Defendant's Dismissal Motion is still pending before  
22 this Court.

23           b. Defendant also has filed a Motion to Suppress  
24 Evidence ("Suppression Motion"), which seeks to suppress a post-  
25 arrest statement made by defendant in Thailand to the Royal Thai  
26 Police. Defendant's Suppression Motion is still pending before this  
27 Court. Defendant noticed both of his Motions to be heard on

1 November 6, 3006.

2 c. On October 24, 2006, the government filed an  
3 unopposed ex parte application for additional time to respond to the  
4 Motions and for a modification of the briefing schedule. With  
5 respect to the Suppression Motion, the government advised the Court,  
6 among other things, that, to the extent that a factual dispute  
7 arises between the parties concerning the Suppression Motion, it may  
8 be necessary to arrange for one or more of the law enforcement  
9 agents to travel from Thailand to the United States to attend the  
10 hearing on the Suppression Motion. With respect to defendant's  
11 Dismissal Motion, the government explained to the Court that,  
12 because 18 U.S.C. § 2423(c) is a relatively new enactment by  
13 Congress, and defendant's Dismissal Motion raises complex  
14 constitutional and statutory challenges to the statute, extended  
15 briefing may be necessary to adequately apprise the Court of the  
16 parties respective positions. The government's ex parte  
17 application, if granted, will necessarily require that the current  
18 trial date of November 14, 2006, be continued.

19 d. Notwithstanding the pending defense Motions, the  
20 parties require additional time to prepare for trial, assuming that  
21 the pending defense Motions will not fully dispose of the case.

22 e. The parties believe that the failure to grant a  
23 continuance would deny them the reasonable time necessary for  
24 effective preparation for trial, taking into account the exercise of  
25 due diligence.

26 f. Defense counsel has discussed defendant's rights  
27 under the Speedy Trial Act with defendant. Defendant understands  
28

1 his rights and agrees to continue the trial from November 14, 2006,  
2 to January 23, 2007, because defendant believes the additional time  
3 is necessary for his counsel to be able to effectively prepare for  
4 trial.

5 g. Based on all of the above, the ends of justice served  
6 by continuing the case as requested outweigh the interest of the  
7 public and defendant in a trial within the original date prescribed  
8 by the Speedy Trial Act.

9 4. For the purpose of computing the time under the Speedy 7  
10 Trial Act, 18 U.S.C. § 3161, et seq., within which trial must  
11 commence, the time period from November 14, 2006, to and including  
12 January 23, 2007, is excludable pursuant to 18 U.S.C. 7  
13 §§ 3161(h)(1)(F), (h)(8)(A), and (h)(8)(B)(iv) because defendant has  
14 filed pretrial motions that are still pending before this Court and  
15 because the parties have requested the continuance and the ends of  
16 justice served by taking such action outweigh the best interest of  
17 the public and defendant in a speedy trial. Additionally, for the  
18 reasons set forth above, failure to grant the continuance would deny  
19 the parties the reasonable time necessary for effective preparation  
20 for trial, taking into account the exercise of due diligence.

21 5. The parties further stipulate and request that the Court  
22 find that nothing in this stipulation shall preclude a finding that  
23 ///  
24 ///  
25 ///  
26 ///  
27 ///

28

1 other provisions of the Speedy Trial Act dictate that additional  
2 time periods are excludable.

3 IT IS SO STIPULATED.

4 DATED: November 3, 2006

Respectfully submitted,

5 DEBRA WONG YANG  
United States Attorney

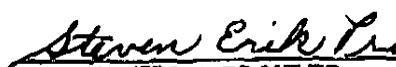
6  
7 THOMAS P. O'BRIEN  
Assistant United States Attorney  
8 Chief, Criminal Division

9  
10 SHERILYN PEACE GARNETT  
Assistant United States Attorney

11 DATED: October 3, 2006

12   
CHRISTOPHER W. DYBWAD  
13 Attorney for defendant

14 November  
15 DATED: October 3, 2006

16   
STEVEN ERIK PROWLER  
Defendant

17 FINDINGS AND [PROPOSED] ORDER

18 In accordance with the stipulation between the government,  
19 defendant, and defendant's counsel of record, and based upon the  
20 record in this case, THE COURT HEREBY FINDS as follows:

21 1. The time period from November 14, 2006, to and including  
22 January 23, 2007, is excludable pursuant to 18 U.S.C.

23 §§ 3161(h)(1)(F), (h)(8)(A), and (h)(8)(B)(iv) due to the following:

24 a. Defendant has filed a thirty-three (33) page Motion  
25 to Dismiss the Indictment, which challenges the enactment of 18  
26 U.S.C. § 2423(c), and raises several Constitutional and statutory  
27 arguments that will require extended briefing. The Motion to

1 Dismiss is currently pending before this Court.

2           b. Defendant has filed a Motion to Suppress, which seeks  
3 to suppress certain statements made by defendant in Thailand to the  
4 Royal Thai Police. Defendant's Motion to Suppress likely will  
5 require that law enforcement agents currently stationed in Thailand  
6 and Cambodia travel to the United States to attend the hearing on  
7 the Motion. The Motion to Suppress is currently pending before this  
8 Court.

9           c. The government has filed an unopposed ex parte  
10 application seeking additional time to respond to defendant's  
11 Motions and seeking a modification of the briefing schedule, which,  
~~was~~ <sup>and</sup> ~~granted,~~ <sup>will</sup> necessarily require~~s~~ that the current trial date of  
12 November 14, 2006, be continued.

14           d. The parties require additional time to prepare for  
15 trial, assuming that the pending Defense Motions will not fully  
16 dispose of the case.

17           e. Failure to grant a continuance would deny them the  
18 reasonable time necessary for effective preparation for trial,  
19 taking into account the exercise of due diligence.

20           f. Defense counsel has discussed defendant's rights  
21 under the Speedy Trial Act with defendant. Defendant understands  
22 his rights and agrees to continue the trial from November 14, 2006,  
23 to January 23, 2007, because defendant believes the additional time  
24 is necessary for his counsel to effectively prepare for trial.

25           g. Based on all of the above, the ends of justice served  
26 by continuing the case as requested outweigh the interest of the  
27 public and defendant in a trial within the original date prescribed  
28

1 by the Speedy Trial Act.

2       2. For the purpose of computing the time under the Speedy  
3 Trial Act, 18 U.S.C. § 3161, et seq., within which trial must  
4 commence, the time period from November 14, 2006, to and including  
5 January 23, 2007, is excludable pursuant to 18 U.S.C.  
6 §§ 3161(h)(1)(F), (h)(8)(A), and (h)(8)(B)(iv) because defendant has  
7 filed pretrial motions that are still pending before this Court and  
8 because the parties have requested the continuance and the ends of  
9 justice served by taking such action outweigh the best interest of  
10 the public and defendant in a speedy trial. Additionally, failure  
11 to grant the continuance would deny the parties the reasonable time  
12 necessary for effective preparation for trial, taking into account  
13 the exercise of due diligence.

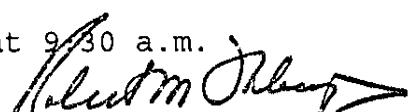
14       3. Nothing in this order shall preclude a finding that other  
15 provisions of the Speedy Trial Act dictate that additional time  
16 periods are excludable.

17       IT IS HEREBY ORDERED that, for all the reasons set forth  
18 above, the time period from November 14, 2006, to and including  
19 January 23, 2007, inclusive, is deemed excludable time within the  
20 meaning of the Speedy Trial Act of 1974, 18 U.S.C. §§ 3161(h)(1)(F),  
21 (h)(8)(A), and (h)(8)(B)(iv).

22       IT IS FURTHER ORDERED that the trial in this matter is  
23 continued to January 23, 2007.

24       IT IS FURTHER ORDERED that the status conference in this matter  
25 is continued to January 8, 2007, at 9:30 a.m.

26 DATED: November 6, 2006

  
THE HONORABLE ROBERT M. TAKASUGI  
United States District Judge

27  
28

1                           **CERTIFICATE OF SERVICE**

2                           **I, LORINDA CANTU declare:**

3                           That I am a citizen of the United States and resident or employed in Los Angeles County,  
4 California; that my business address is the Office of the United States Attorney, United States  
5 Courthouse, 312 North Spring Street, Los Angeles, California, 90012; that I am over the age of  
6 eighteen years, and am not a party to the above-entitled action;

7                           That I am employed by the United States Attorney for the Central District of California  
8 who is a member of the Bar of the United States District Court for the Central District of alifornia,  
9 at whose direction I served a copy of

10                          **STIPULATION REGARDING CONTINUANCE OF TRIAL DATE AND EXCLUDABLE  
TIME UNDER SPEEDY TRIAL ACT; [PROPOSED] ORDER AND FINDINGS**

11                          service was:

12                          [X]Placed in a closed  
envelope, for collection  
13 and interoffice delivery  
addressed as follows:

14                           Placed in a sealed  
envelope for collection and  
Mailing via United States Mail,  
addressed as follows:

15                           By hand delivery

16                           By facsimile as follows:

17                          **CHRISTOPHER W. DYBWAD  
DEPUTY FEDERAL PUBLIC DEFENDER  
321 EAST 2<sup>ND</sup> STREET  
LOS ANGELES, CA 90012**

18                          This Certificate is executed on , November 3, 2006 Los Angeles, California.

19                          I certify under penalty of perjury that the foregoing is true and correct.

20  
21  
22                            
LORINDA CANTU

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